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August 23, 2012

BY EMAIL

Judge Katherine B. Forrest
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Illinois National Insurance Company et al v. Tutor Perini Corporation
1:11-cv-00431-KBF

Dear Judge Forrest:

I write on behalf of the Chartis Insurers¹, in response to the letter from Tutor Perini Corporation ("Tutor") today that requests an extension of time to respond to the Insurers' summary judgment papers. Certain Underwriters at Lloyds, London join in this letter (together with the Chartis Insurers, the "Insurers").

Although all Parties have been accommodating with respect to schedules, and the summary judgment papers deserve a full briefing, the Insurers must strenuously oppose Tutor's request given the current trial schedule. Delaying Tutor's opposition would leave the Insurers in the dark about Tutor's defenses until the eve of trial, and would similarly push out the summary judgment briefing until the eve of trial. Finally, the Insurers' supplemental statements do not justify an extension because the supplemental statements are not extensive and were made necessary because of the schedule of Tutor's own witness.

First, because there has been no prior summary judgment briefing, the Insurers still do not know what Tutor's fundamental arguments and facts will be. If the summary judgment opposition deadline were moved out until August 31, 2012, the Insurers would first learn Tutor's arguments ten days before the pre-trial statements are due, and only two weeks before trial.

Next, it would be fundamentally unfair to allow Tutor to file its opposition to the Insurers' motions for summary judgment and further statements of facts on August 31, 2012 and move out

¹ Illinois National Insurance Company, The Insurance Company of the State of Pennsylvania, and National Union Fire Insurance Company of Pittsburgh, Pa.



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the Insurers' Reply deadline to September 13, 2012. The Parties would have to wait another week to learn whether the case is going to trial – at the significant expense of another full time week of trial preparation. More significantly, the Insurers' reply would be due two business days before the trial, prejudicing the Insurers' ability to prepare for trial and all but assuring that the Court will have inadequate time to rule on the summary judgment papers before the trial.

Finally, the fact that the Court allowed the Insurers to submit additional statements of fact is no surprise to Tutor and is of Tutor's own making. On July 11, 2012 Tutor proposed July 30, 2012 (the day summary judgment papers were due) to provide one of its Rule 30(b)(6) witnesses. See attached email. Counsel to the Insurers agreed to that late date only if Tutor would agree to letting the Insurers supplement their statements of fact. Id. The supplements are short and concern only that one witness's testimony, and make no legal arguments. Similarly, it is Tutor that has coordinated the deposition schedule of the broker.

The Insurers believe that the summary judgment papers deserve a full briefing and are sympathetic to Tutor's request, but they must strenuously oppose the requested extension given the case's current posture.

Thank you for your consideration.

Best regards,

A handwritten signature in black ink, appearing to read 'Joshua Gardner'.

Joshua Gardner

George Rockus

cc: Alex Hardiman

Gardner, Joshua

From: Gardner, Joshua
Sent: Sunday, July 15, 2012 12:28 PM
To: 'Pichardo, Vianny'; "George.Rockas@wilsonelser.com" (George.Rockas@wilsonelser.com)
Cc: Hardiman, Alex D.; Morales, Michelle
Subject: RE: Tutor Perini - Deposition Schedule

Vianny: I can do Laing on 7/30, contingent on an agreement from you that I can add additional statements of fact to my summary judgment motion from Laing's deposition within a reasonable time from when I get an expedited transcript. Additionally, I do not know the time deadline in the SDNY for e-filing (in some districts its 6, some its midnight, etc.), but I will also need agreement from you that I will have until midnight to e-file. That will be a busy day!

Michelle: Please book conference room and stenographer.

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From: Pichardo, Vianny [mailto:Vpichardo@andersonkill.com]
Sent: Wednesday, July 11, 2012 3:45 PM
To: Gardner, Joshua; "George.Rockas@wilsonelser.com" (George.Rockas@wilsonelser.com)
Cc: Hardiman, Alex D.
Subject: RE: Tutor Perini - Deposition Schedule

Josh/George,

We have confirmed Laing for 7/30. 10am at Edwards Wildman NY?
I also reached out to Allied/Aon's counsel and they have asked us to pencil them in for 7/26.
Please confirm these dates still work.

FYI – Josh informed me Doug Stieve will be WJE's witness.



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Vianny Pichardo
Attorney

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Biography

8/22/2012

From: Pichardo, Vianny
Sent: Wednesday, July 11, 2012 10:52 AM
To: 'JGardner@edwardswildman.com';
"George.Rockas@wilsonelser.com" (George.Rockas@wilsonelser.com)
Cc: Hardiman, Alex D.
Subject: Tutor Perini - Deposition Schedule

Josh/George,

Below is the deposition schedule to date. Please note the earlier start time at 9:00am for the T. Flynn (Tutor Perini) deposition at Edwards Wildman NY Office. Please let me know if there are any changes to the below. We are still waiting to confirm J. Laing in July if possible, and Jason Benfield in August.

1. July 17, 2012, 10:00am - WJE
(Edwards Wildman NY Office)
Deponent: WJE - TBD
WJE's Counsel: TBD
2. July 19, 2012, 9:00am – Tutor Perini
(Edwards Wildman NY Office)
Deponent: Terrence (Terry) Flynn (Tutor Perini)
Tutor Perini's Counsel: Alex Hardiman
3. July 20, 2012, 10:00am - McLarens Young
(AKO NY Office)
Deponent: Graham Jackson
Lloyd's Counsel: George Rockas, Wilson Elser
4. July 27, 2012, 10:00am - Willis
(AKO NY Office)
Deponent: Gerry McCarthy
Willis' Counsel: David Simunovich, Strook & Strook
5. July 31, 2012, 10:00am - Chartis
(AKO NY Office)
Deponent: Marty Nichols (TP policies)
Chartis' Counsel: Joshua Gardner, Edwards Wildman
6. July 31, 2012, 2:00pm - Chartis
(AKO NY Office)
Deponent: David Melick (MTA policies)
Chartis' Counsel: Joshua Gardner, Edwards Wildman



Vianny Pichardo
Attorney

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8/22/2012